

**Introduced by Senator Dunn**

February 22, 2005

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An act to add Section 110592 to the Health and Safety Code, relating to public health.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 985, as introduced, Dunn. Adulterated candy: lead poisoning prevention.

Existing law, the Sherman Food, Drug, and Cosmetic Law, requires the State Department of Health Services to regulate manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the federal Food, Drug, and Cosmetic Act. The law makes it unlawful for any person to adulterate food and defines adulterated food to include a confectionary containing a nonnutritious substance. Violation of these provisions is a crime.

This bill would require the department to regulate lead in chili, tamarind, and other candy, as defined. The bill would require the department to test the candy to determine the presence of lead, to issue related health advisories, and to order local health officers to remove from shelves or retailers, and to order the embargo of candy found to contain lead at levels above the permissible standard as determined by the Office of Environmental Health Hazard Assessment. The bill would require the department to adopt related regulations. The bill would authorize the department to enter into contracts with county health officers and environmental justice organizations. By changing the definition of a crime, and by requiring enforcement of these provisions in part by county health officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 110592 is added to the Health and  
2 Safety Code, to read:

3 110592. (a) The department shall regulate candy to ensure  
4 that the candy is not adulterated.

5 (b) For the purposes of this chapter, “candy” means any  
6 confectionary intended for individual consumption that contains  
7 chili, tamarind, or any other ingredient suspected of containing  
8 high levels of lead as set forth in regulations adopted by the  
9 department.

10 (c) For purposes of this section “adulterated candy” means any  
11 candy with lead levels that exceed the naturally occurring level  
12 as determined by regulations adopted by the Office of  
13 Environmental Health Hazard Assessment. Moreover, candy is  
14 adulterated if its wrapper or the ink on the wrapper contains any  
15 detectable levels of lead.

16 (d) The department shall do all of the following:

17 (1) Ensure that the candy is not adulterated.

18 (2) Require the testing of sample candy to ensure that the  
19 candy is not adulterated.

20 (3) Issue health advisories when candy has been found to be  
21 adulterated.

22 (4) Order local health officers to remove from shelves of  
23 retailers, any candy found to be adulterated.

24 (5) Order an embargo against candy that is found to be  
25 adulterated .

26 (6) Make enforcement of this article a major department goal.

1 (7) Enter into contracts with county health officers and county  
2 environmental health officers to collect samples of candy for  
3 submission to the Food and Drug branch of the department for  
4 testing pursuant to this article.

5 (8) Through its Food and Drug branch, test the samples of  
6 candy collected pursuant to this article.

7 (9) Through its Childhood Lead Poisoning Prevention branch,  
8 draft, periodically update, and distribute a community flyer that  
9 identifies all candy found to be in compliance with the  
10 requirements of this section, for use by the department to inform  
11 the public and to educate retailers. This flyer shall be updated as  
12 necessary to remove any candy that is found to be adulterated.

13 (10) Enter into five to 10 grants to environmental justice  
14 organizations throughout the state to identify stores and candy  
15 that need to be tested. Pursuant to these grants, the organizations  
16 shall visit stores and document whether adulterated candy is  
17 being sold, and report to the department and to local enforcement  
18 agencies.

19 (11) Issue and update community fliers listing adulterated  
20 candy and lead free candy. The environmental justice  
21 organizations shall use the flier for community education and  
22 outreach efforts.

23 (12) Adopt regulations necessary for the enforcement of this  
24 article.

25 (13) Evaluate the regulatory process, identify problems, and  
26 make changes or report to the Legislature, as necessary.

27 SEC. 2. No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution for  
29 certain costs that may be incurred by a local agency or school  
30 district because, in that regard, this act creates a new crime or  
31 infraction, eliminates a crime or infraction, or changes the  
32 penalty for a crime or infraction, within the meaning of Section  
33 17556 of the Government Code, or changes the definition of a  
34 crime within the meaning of Section 6 of Article XIII B of the  
35 California Constitution.

36 However, if the Commission on State Mandates determines  
37 that this act contains other costs mandated by the state,  
38 reimbursement to local agencies and school districts for those  
39 costs shall be made pursuant to Part 7 (commencing with Section  
40 17500) of Division 4 of Title 2 of the Government Code.

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